

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF MICHAEL W.
AND PAMELA S. RIDDLE from the decisions of the
Board of Equalization of Valley County for the tax year
2007.

) APPEAL NOS. 07-A-2675
) AND 07-A-2676
) FINAL DECISION AND
) ORDER

PROPERTY APPEAL

NOTICES OF APPEAL were filed September 6, 2007 by Appellants, from two decisions of the Valley County Board of Equalization denying the protests of the valuation for taxing purposes of properties described as Parcel Nos. LR000340060050A and XR000340060050A. As a matter of convenience, Appellants requested these appeals be heard on the written record created by the parties, without the necessity of appearance at a hearing. This Board subsequently requested that all information and evidence to be considered be submitted by both parties. The Board now issues its decision based upon the documentary record.

The issue on appeal is the market value of a residential property.

The decisions of the Valley Board of Equalization are affirmed.

FINDINGS OF FACT

Parcel No. LR000340060050A

The total improvements' value is \$184,480. In their brief, Appellants request the improvements' value be reduced to \$135,000.

The subject property is located in McCall, Idaho. Subject consists of a 1,952 square foot cabin, built in 1965 and enlarged through remodeling in the 1970's and early 1990's. There is also a 280 square foot detached garage, built in 1975 and considered to be low grade and in average condition. Access to subject is via gravel road, which is not maintained by the county. Subject is considered to be a third or fourth tier property with no view of the lake.

Appellants stated the assessed market value of subject was too high. Taxpayers

purchased subject in June 2001 for \$135,000, which included an assumption of a state lease on the land. Appellants noted since that time there had been a 75.6% increase in subject's assessed value.

Taxpayers asserted subject cannot be considered to have the same value as homes located on fee simple land because the structure is permanently attached to state-owned land. Due to this fact, Appellants contested subject should be viewed as personal property, which depreciates in value from year to year. Additionally, the value of subject is dependent on the state. In the event the state does not renew the lease or renegotiates the terms of the lease to make it untenable, the improvement would become virtually worthless because it is permanently attached to the land.

Taxpayers asserted any sale properties introduced as comparable to subject would be highly subjective because the price would include the amount of money a buyer was willing to pay to assume the lease. It would be difficult to determine the amount attributable to the lease. Taxpayers asserted the market for state leased property had nearly collapsed because of the increase in assessed values in recent years.

Two properties were presented by Appellants as comparable to subject. The first property was situated on a 0.32 acre state-leased lot with a wooded view and access to the lake. The improvement size was estimated between 601-800 square feet and sold for \$125,000 on November 15, 2007.

The second property was a listing, yet to be sold. It was situated on land leased from the state with a wooded view and lake access. This property was estimated to be similar in size to subject .30 acres, with improvements of 1,601-1,800 square feet, however it had a lake view with a boat slip. Subject has neither. The property was listed for \$179,000.

In addition, Appellants submitted an email from a local Century-21 Clark Real Estate broker. According to the Broker there were very few properties comparable to subject and estimated subject would probably only sell between \$125,000 and \$150,000. Only two properties were sold in 2007 and one in 2006. Other properties sold between 2003-2005, but would be too dated for use in determining subject's current value. The Broker wrote the majority of state-leased listings had either expired or been withdrawn. The listing referenced by Appellant above was the only one pending this year.

Five properties were submitted by the County to support the assessed improvement value of subject. These properties ranged in size from 748 to 3,228 square feet. The sale prices ranged from \$285,000 to \$465,000, with improvement residuals between \$177,970 and \$377,390 (sale price minus land value). The sale properties ranged in price per square foot from \$33.09 to \$64.81. A comparison of the assessed values to the sale prices indicated an assessment level or ratio of 67.6%. Also noted was a 5% downward adjustment applied to subject for depreciation.

Parcel No. XR000340060050A

The total assessed land value is \$119,330. Appellants request the land value be reduced to \$71,000.

The subject property is located on 0.379 acres of state leased land in the Cedar Knoll Acres of Amended Payette Lake Cottage Sites Subdivision in McCall, ID. Access to subject is a gravel road, which is not maintained by the county. Subject is considered to be a third or fourth tier property with no view of the lake.

Taxpayers asserted there was a 78% increase in subject's assessed valuation over the prior year; from \$67,130 to \$119,330.

Appellants stated certain deductions should be made for subject because property leased from the state could only be sold subject to the lease, which affects marketability. The state lease made property very difficult to finance because of the uncertainty of lease rates from one term to the next. This uncertainty was argued to affect marketability and should therefore decrease subject's assessed value.

Taxpayers asserted there was only one sale of leasehold property in all of 2007. It was contended leasehold property cannot be considered the same as property held in fee simple because of the difference in marketability and the difficulty associated with a financing leasehold property.

Due to the increase in the assessed value of subject, it was estimated the lease payment would increase three fold next year, making it difficult for Appellants to retain the property. Taxpayers looked into selling subject but were told by a local broker there was no market for leasehold properties at the time.

The Assessor stated the leased lot is of average grade with a local view and level topography. There was a negative 5% physical depreciation adjustment applied to the land value, placing the land at \$119,330, or \$7.23 per square foot. The County asserted the reason leased lots are assessed is so the Payette Water and Sewer District can determine the fees to collect from users of its services. In December 2007 the State Land Board froze lease payments of Payette Lake Cabin sites for one year in order to research feasible solutions to the recent increase in property values and associated lease rates.

The County presented four properties to support the assessed land value of subject. The properties ranged in size from 0.226 to 0.931 acres and in sale price from \$165,000 to \$185,000. The assessed values were compared to the sale prices, which indicated an assessment level or

ratio of 60%.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

Parcel No. LR000340060050A

Idaho Code requires property be assessed at market value for the purposes of taxation as defined in § 63-201.

(10) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

To that end, the Idaho Supreme Court has recognized three approaches for determining market value.

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to "income producing property" in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Both parties utilized the market data approach to support their respective value positions. Appellants presented one sale that occurred in 2007 and one listing. Because sales are required

under the market data approach, the listing referenced by Appellants is not considered good evidence of market value.

Per Idaho Code § 63-205, property is to be valued on January 1 of the applicable tax year; January 1, 2007 in the present case. As such, sales occurring after the January 1 lien date are considered untimely and cannot be used to support or establish market value of a particular property. Accordingly, the July 2007 sale provided by Appellants is untimely and cannot be considered here.

Respondent provided five (5) improved property sales, one of which occurred in 2005. The remaining properties sold during 2006. In the absence of recent sales (i.e. 2006), sales from prior years can be used to support value. In this case, there were a sufficient number of 2006 sales, so the 2005 sale need not be considered here.

The 2006 sales were between 748 and 3,228 square feet. The properties were similar to subject in terms of grade and condition. After extracting land value from the sale prices, the improvement values were reported to be between \$199,970 and \$377,390. Subject is 1,952 square feet with an assessed value of \$177,980.

“The value of property for purposes of taxation as determined by the assessor is presumed to be correct; and the burden of proof is upon the taxpayer to show by [a preponderance of the] evidence that he is entitled to the relief claimed.” Board of County Comm’rs of Ada County v. Sears, Roebuck & Co., 74 Idaho 39, 46-47, 256 P.2d 526, 530 (1953).

Due to the reasons outlined above, Appellants did not present value evidence sufficient to demonstrate error in subject’s assessment. Respondent, on the other hand, presented several sales of properties similar in grade and condition as subject. Considering everything

presented in this matter, Appellants did not convince this Board subject was over-valued; the burden of proof was not met. The decision of the Valley County Board of Equalization concerning this property is affirmed.

Parcel No. XR000340060050A

Appellants argued leased land should not be valued the same as property held in fee simple. It was asserted several downward adjustments would need to be made to reasonably calculate the value of a leasehold property, such as; an adjustment for decreased marketability due to the fact the property is subject to a lease, financing a lease is difficult, and the uncertainty of short term leases and associated lease rates.

Appellants did not provide any substantive evidence (i.e. sales) to support subject's proposed value. Appellants stated there had only been one leasehold sale during 2007, though no details concerning the property or the sale price were provided. Though, as noted in the above decision, sales occurring after January 1, 2007 are considered untimely. Idaho Code § 63-205.

Though not specifically stated, the County is required by law to value property leased from the state the same as property held in fee simple. Idaho Code § 39-3635(c) provides in pertinent part;

(3) Notwithstanding that title to a cottage site remains in the state of Idaho, each cottage site lessee shall pay to any district operating a sewer system to which the cottage site is connected as provided in subsection (2) of this section, each year in the same manner and at the same time as county taxes are paid and collected a sum of money in lieu of taxes equal to the sum which would have been paid had the cottage site been held in private ownership. . . .
(Emphasis added)

While we recognize the differences in property rights (and likely market values) between

leasehold and fee simple properties, Idaho Code specifically requires they be valued the same for the purposes of collecting fees for the operation of a sewer system; Payette Lake Water and Sewer District in this case.

Appellants did not provide evidence sufficient to convince this Board by a preponderance of the evidence that subject's assessment was erroneous. Accordingly, the decision of the Valley County Board of Equalization concerning this parcel is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Valley County Board of Equalization concerning the subject parcels be, and the same hereby are, affirmed.

MAILED April 30, 2008